

Hall of the House of Representatives
91st General Assembly - Regular Session, 2017
Amendment Form

Subtitle of House Bill No. 1798

AMENDING THE BURDEN OF PROOF REQUIRED DURING THE SENTENCING PHASE OF A TRIAL
WHEN THE STATE SEEKS THE DEATH PENALTY.

Amendment No. 2 to House Bill No. 1798

Amend House Bill No. 1798 as engrossed, H3/9/17 (version: 03/09/2017 11:58:45 AM):

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Arkansas Code § 5-4-603 is amended to read as follows:

5-4-603. Findings required for death sentence – Harmless error review.

(a) The jury shall impose a sentence of death if the jury unanimously returns written findings that:

(1) An aggravating circumstance exists beyond a reasonable doubt;

(2) Aggravating circumstances outweigh beyond a reasonable doubt all mitigating circumstances found to exist; ~~and~~

(3) Aggravating circumstances justify a sentence of death beyond a reasonable doubt; and

(4) The defendant is guilty of each element of the underlying offense beyond any doubt.

(b) The jury shall impose a sentence of life imprisonment without parole if the jury finds that:

(1) Aggravating circumstances do not exist beyond a reasonable doubt;

(2) Aggravating circumstances do not outweigh beyond a reasonable doubt all mitigating circumstances found to exist; ~~or~~

(3) Aggravating circumstances do not justify a sentence of death beyond a reasonable doubt; or

(4) The defendant is not guilty of an element of the underlying offense beyond any doubt.

(c) If the jury does not make any finding required by subsection (a) of this section, the court shall impose a sentence of life imprisonment without parole.

(d)(1) On an appellate review of a death sentence, the Supreme Court shall conduct a harmless error review of the defendant's death sentence if:

(A) The Supreme Court finds that the jury erred in finding the existence of any aggravating circumstance for any reason; and

(B) The jury ~~found no~~ did not find a mitigating circumstance.



(2) The Supreme Court shall conduct a harmless error review under subdivision (d)(1) of this section by determining that a remaining aggravating circumstance:

(A) Exists beyond a reasonable doubt; and

(B) Justifies a sentence of death beyond a reasonable doubt.

(e) If the Supreme Court concludes that the erroneous finding of any aggravating circumstance by the jury would not have changed the jury's decision to impose the death penalty on the defendant, then a simple majority of the court may vote to affirm the defendant's death sentence."

The Amendment was read _____

By: Representative Blake

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Chief Clerk